



# State Personnel Board Rules

Georgia Department of Administrative Services

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## 478-1-.25 Reduction in Force for Classified Employees.

### (1) **Introduction:**

A Reduction in Force is defined within this Rule to refer to the separation from a job, furlough, or salary reduction of one or more employees as the result of a shortage of work or funds, a change in organization, or otherwise. Reduction in Force shall not be used to circumvent the Rules on adverse action dismissal.

### (2) **Definition of Key Terms:**

For the purposes of this Rule, the following terms and definitions apply in addition to those in Rule 478-1-.02 (Terms and Definitions)

- (a) "Average Summary Rating" means the average of the Summary Ratings of all annual performance evaluations issued in the two years immediately prior to the performance evaluation cutoff date.
- (b) "Competitive Area" is defined by the Appointing Authority as any clearly identified organizational, budgetary, or geographic part of the agency to which a Reduction in Force is to apply. Examples of appropriately defined competitive areas include, but are not limited to: eliminating or reducing the number of positions within a single job due to a reorganization, re-engineering of a business process, or based on a different funding source; eliminating or outsourcing a business function; and, closing or consolidating facilities.
- (c) "Competitive Jobs" mean those job titles/numbers to which the Reduction in Force is to apply.
- (d) "Summary Rating" is the overall rating provided on any annual performance evaluation.

### (3) **Applicability:**

With the exception of reporting requirements outlined in provisions (14) and (15), below, this Rule applies only to employees in the classified service as defined in Rule 478-1-.02 (Terms and Definitions).



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## **(4) Employee Competition:**

Competition shall be among all classified employees in a competitive job in the competitive area, except as set forth in provision (6) of this Rule. Each job shall be treated separately, and employees shall be reduced in the sequence outlined in provision (9) of this Rule.

## **(5) Employees on Contingent Leave or Working Test:**

In the event of a Reduction in Force, the following provisions apply for employees in a competitive job in the competitive area who are either on contingent leave or working test.

- (a) Employees on contingent leave without pay shall be the first to be separated, except as set forth in provision (6) of this Rule.
- (b) Employees on working test following a promotion shall revert to the last job (or equivalent if such job is not available) in which they hold permanent status and shall, if necessary, compete with other employees in that job, provided the job exists in the competitive area.

## **(6) Exceptions in Special Cases:**

Employees in the competitive area are affected by Reduction in Force in the sequence within provision (9) of this Rule, except as outlined in this paragraph. If the position of an employee is not to be abolished and its duties cannot be satisfactorily performed after a reasonable training period by an employee higher in the order of retention whose position is to be abolished, the employee may be retained in preference to such employee higher in the order of retention. The facts supporting use of this provision must be stated in the Reduction in Force Plan.

## **(7) Reduction in Force Plan:**

- (a) No employee will be adversely impacted by Reduction in Force except in accordance with a plan previously approved by the Department of Administrative Services.
- (b) The Reduction in Force Plan submitted to the Department of Administrative Services will contain:



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1. A brief statement of the circumstances requiring the Reduction in Force and the proposed effective date;
  2. A definition of the competitive area;
  3. A cutoff date after which performance evaluations will not be accepted;
  4. A list of employees in each competitive job in order of retention credits on a form prescribed by or acceptable to the Department of Administrative Services, provided that retention credits need not be calculated or included on such list when any competitive job consists of only one employee or all incumbents of all jobs in the competitive area are to be separated effective the same date;
  5. Justification of any retentions under provision (6) of this Rule; and,
  6. The manner by which the order of retention shall be determined when employees are tied in total retention credits.
- (c) The Department of Administrative Services will examine the proposed plan for conformity with the Rules. If the plan is not acceptable, the Department of Administrative Services will notify the agency of the changes necessary. When the plan is in accordance with the Rules, the Department of Administrative Services will approve the plan and notify the agency. The agency, on notice that the plan is approved, may proceed with the Reduction in Force.
- (d) A copy of the approved Reduction in Force Plan will be made available by the Appointing Authority for inspection by any employee or former employee who was directly affected as a result of the Reduction in Force.
- (8) Retention Credits:**

Retention credits shall be based upon the average summary rating of performance evaluations and length of continuous and most recent service.

**(a) Summary Ratings:**

Summary ratings on performance evaluations shall be assigned the following numerical values for the purpose of computing retention credits:



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1. Zero (0) for a summary rating of “Unsatisfactory Performer”
  2. Two (2) for a summary rating of “Successful Performer – Minus”
  3. Three (3) for a summary rating of “Successful Performer”
  4. Four (4) for a summary rating of “Successful Performer – Plus”
  5. Five (5) for a summary rating of “Exceptional Performer”
- (b) The average summary rating for purposes of reduction of classified employees shall be derived by adding the numerical values assigned to the summary ratings of all annual performance evaluations issued in the two (2) years immediately prior to the performance evaluation cutoff date set by the agency in the Reduction in Force Plan and dividing the sum thereof by the number of ratings, rounded to the nearest tenth of a point. If no performance evaluation was issued during the two-year period, an employee will be assigned a presumptive average summary rating of three (3) Successful Performer.
- (c) The following conversions apply to the average summary rating:
1. 0 retention credits for an average summary rating of 1.0 to 1.9
  2. 60 retention credits for an average summary rating of 2.0 to 2.4
  3. 68 retention credits for an average summary rating of 2.5 to 2.9
  4. 76 retention credits for an average summary rating of 3.0 to 3.4
  5. 84 retention credits for an average summary rating of 3.5 to 3.9
  6. 92 retention credits for an average summary rating of 4.0 to 4.4
  7. 100 retention credits for an average summary rating of 4.5 to 4.9
  8. 108 retention credits for an average summary rating of 5.0
- (d) Employees receive one (1) additional retention credit for each full year of continuous service, including any period of leave which has been allowed in accordance with these Rules. One-half year or more will be considered as one (1) year; less than one-half year will be disregarded. For the purpose of determining years of continuous service as provided in this section, service shall be computed up to the effective date of the Reduction in Force.
- (e) The sum of the retention credits for performance and length of continuous service will constitute the total number of retention credits for an employee.



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### (9) **Sequence for Reduction of Permanent Employees:**

- (a) Within a competitive area the order of Reduction in Force of employees in each job shall be:
1. First group to be reduced – from the lowest to highest number of retention credits, employees who are not honorably discharged veterans of a period of armed conflict and whose average summary performance evaluation rating is lower than three (3) “Successful Performer;”
  2. Second group to be reduced -- from the lowest to highest number of retention credits, employees who are honorably discharged veterans of a period of armed conflict and whose average summary performance evaluation rating is lower than three (3) “Successful Performer;”
  3. Third group to be reduced – from the lowest to highest number of retention credits, employees who are not honorably discharged veterans of a period of armed conflict and whose average summary performance evaluation rating is three (3) “Successful Performer” or higher; and,
  4. Fourth group to be reduced – from the lowest to highest number of retention credits, employees who are honorably discharged veterans of a period of armed conflict and whose average summary performance evaluation rating is three (3) “Successful Performer” or higher.
- (b) If two or more employees are tied in the total number of retention credits and one or more but not all employees so tied are to be selected for reduction, the Appointing Authority shall determine the manner in which the order of retention shall be determined.

### (10) **Reduction in Force - Furlough:**

- (a) An Appointing Authority may also file a plan with the Department of Administrative Services to place employees in non-pay status as a temporary Reduction in Force. Employees may be furloughed up to 30 workdays within a twelve month period.
- (b) As a part of the plan, the Appointing Authority shall define the method of determining the order employees are to be placed in non-pay status; provided,



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however, that any method used shall place all affected employees in the same job in non-pay status for the same amount of time.

- (c) The plan will contain all other elements of a Reduction in Force plan in accordance with this Rule except that retention credits and the order of furlough need not be considered if all employees holding positions of a particular job within the competitive group are to be placed in non-pay status for the same period of time.
- (d) When furloughing a Fair Labor Standards Act (FLSA) exempt employee, the agency shall follow FLSA provisions related to exempt status during any workweek in which a furlough occurs.

### (11) **Reduction in Force - Salary Reduction:**

- (a) An Appointing Authority may file a plan with the Department of Administrative Services to reduce the salary of employees for the purpose of conserving funds. Such reductions shall be made applicable to the competitive area defined in the plan and shall reduce the salary of all affected employees for the same amount of time.
- (b) The plan will contain all other elements of a Reduction in Force Plan except that retention credits need not be calculated.
- (c) Prior to reducing the salary of a Fair Labor standards Act (FLSA) exempt employee, the agency should determine whether such action would result in the loss of the FLSA exemption.

### (12) **Notice Exception for Reduction in Force due to Unavailability of Funds:**

Provisions (13) and (14) of this Rule shall not apply to a Reduction in Force which must become effective immediately if the agency has insufficient funds available to pay the salaries of the affected employees. Each employee affected by a Reduction in Force will be notified in writing prior to the action.

### (13) **Employee Notice:**

- (a) Except as set forth in provision (12) of this Rule, each employee separated or reduced in time-status by a Reduction in Force will be notified in writing at least thirty (30) calendar days prior to the action.



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(b) Such notice shall contain at a minimum:

1. A statement of the nature of the proposed action to be taken with respect to the affected employee;
2. An explanation of the rights of the affected employee with respect to any right of appeal;
3. Any opportunities with respect to possible continued employment or opportunities to apply for employment with any public or private party assuming the functions of the employee or any other similar opportunities; and,
4. An explanation of any rights and options with respect to employment benefits, including, but not limited to, any right to continue participation in any retirement system or insurance plan.

**(14) Legislative Notification:**

If a Reduction in Force would result in the elimination of twenty-five (25) or more positions or the termination of twenty-five (25) or more employees (including classified and/or unclassified employees), the Appointing Authority shall, at least fifteen (15) calendar days prior to notifying employees of the proposed action, notify the President of the Senate and the Speaker of the House of the proposed reduction. The notice shall:

- (a) Identify the facility(ies) and operation(s) to be affected and the estimated number of employees to be affected; and,
- (b) State the reasons for the proposed action.

**(15) Report of Reduction in Force:**

State entities implementing a Reduction in Force as the term is defined within this Rule, or implementing similar actions impacting unclassified employees, must report the total number of classified and unclassified employees impacted to the Department of Administrative Services when notice is provided to employees, or within 30 days prior to implementation, whichever appropriate.



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**(16) Reinstatement:**

An employee who has been laid off as a result of an approved Reduction in Force Plan, and who meets all the qualifications (including any licensure and certification requirements and special qualifications), shall retain status in and right to reinstatement to a classified position in the job in the competitive area from which the employee was separated for a period of one (1) year from the date of separation and shall be reinstated in inverse order to the order of layoff. A refusal by the employee of reinstatement upon reasonable notice by the Appointing Authority nullifies the right to reinstatement.

**Authority:**

O.C.G.A. Secs. 45-20-3, 45-20-3.1, 45-20-4 (duties and functions of the State Personnel Board and Department of Administrative Services related to the Rules of the State Personnel Board) and 45-20-19 (Reduction in Force).